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9 UNITED STATES DISTRICT COURT

10 NORTHERN DISTRICT OF CALIFORNIA

11 SAN FRANCISCO DIVISION

12 GOOGLE LLC,

13 Plaintiff,

14 vs.

15 SONOS, INC.,

16 Defendant.

CASE NO. 3:20-cv-06754-WHA

Related to CASE NO. 3:21-cv-07559-WHA

**GOOGLE LLC'S ADMINISTRATIVE
MOTION TO FILE UNDER SEAL
PORTIONS OF ITS PATENT
SHOWDOWN OPPOSITION TO
SONOS'S MOTION TO STRIKE
PORTIONS OF GOOGLE'S SUMMARY
JUDGMENT MOTION**

I. INTRODUCTION

Pursuant to Civil Local Rules 7-11 and 79-5, Plaintiff Google LLC (“Google”) hereby requests to file under seal portions of its Patent Showdown Opposition to Sonos’s Motion to Strike Portions of Google’s Motion for Summary Judgment (“Opposition”). Specifically, Google requests an order granting leave to file under seal the portions of the documents listed below:

Document	Portions to Be Filed Under Seal	Designating Party
Google’s Opposition	Portions highlighted in green	Google
Exhibit 2	Portions highlighted in green	Google
Exhibit 6	Portions highlighted in green	Google
Exhibit 9	Portions highlighted in green	Google
Affidavit of N. Hefazi	Portions highlighted in green	Google

II. LEGAL STANDARD

Civil Local Rule 79-5(c) provides that a party seeking to file its own documents under seal must file an administrative motion that articulates the applicable legal standard and reasons for keeping a document under seal, includes evidentiary support from a declaration where necessary, and provides a proposed order that is narrowly tailored to seal only the sealable material.

“Historically, courts have recognized a ‘general right to inspect and copy public records and documents, including judicial records and documents.’” *Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 597 & n.7 (1978)). Accordingly, when considering a sealing request, “a ‘strong presumption in favor of access’ is the starting point.” *Id.* (quoting *Foltz v. State Farm Mutual Auto. Insurance Company*, 331 F.3d 1122, 1135 (9th Cir. 2003)).

The Ninth Circuit has recognized that two different standards may apply to a request to seal a document – namely the “compelling reasons” standard or the “good cause” standard. *Blessing v. Plex Sys., Inc.*, No. 21-CV-05951-PJH, 2021 WL 6064006, at *12 (N.D. Cal. Dec. 22, 2021) (citing *Ctr. For Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1096-97 (9th Cir. 2016)). The

1 compelling reasons standard applies to any sealing request made in connection with a motion that
 2 is “more than tangentially related to the merits of a case.” *Id.* Accordingly, courts in this district
 3 apply a “compelling reasons” standard to a sealing request made in connection with a motion for
 4 summary judgment. *See, e.g., Edwards Lifesciences Corp. v. Meril Life Scis. Pvt. Ltd.*, No. 19-CV-
 5 06593-HSG, 2021 WL 5233129, at *4 (N.D. Cal. Nov. 10, 2021); *Baird v. BlackRock Institutional*
 6 *Tr. Co., N.A.*, No. 17-CV-01892-HSG, 2021 WL 105619, at *5 (N.D. Cal. Jan. 12, 2021).

7 **III. THE COURT SHOULD SEAL GOOGLE’S CONFIDENTIAL INFORMATION**

8 Material that is confidential and could harm a litigant’s competitive standing if disclosed
 9 may be sealed under the compelling reasons standard. *Icon-IP Pty Ltd. v. Specialized Bicycle*
 10 *Components, Inc.*, No. 12-cv-03844-JST2015 WL 984121, at *2 (N.D. Cal. Mar. 4, 2015)
 11 (information “is appropriately sealable under the ‘compelling reasons’ standard where that
 12 information could be used to the company’s competitive disadvantage”); *In re Qualcomm Litig.*,
 13 No. 3:17-CV-0108-GPC-MDD, 2017 WL 5176922, at *2 (S.D. Cal. Nov. 8, 2017) (concluding that
 14 “compelling reasons exist to seal . . . information subject to confidentiality and non-disclosure
 15 provisions” because “[s]uch insight could harm the parties in future negotiations with existing
 16 customers, third-parties, and other entities with whom they do business”);

17 Google’s Opposition, Exhibits 2, 6, 9 and the Affidavit of N. Hefazi contain confidential
 18 information regarding highly sensitive features of Google’s products. Specifically, these documents
 19 detail the operation and system design of Google products and functionalities that Sonos accuses of
 20 infringement. Public disclosure of these documents would harm the competitive standing Google
 21 has earned through years of innovation and careful deliberation by revealing sensitive aspects of
 22 Google’s proprietary systems, strategies, designs, and practices to Google’s competitors. Hefazi
 23 Decl. ¶ 4. A less restrictive alternative than sealing these exhibits would not be sufficient because
 24 the information sought to be sealed is Google’s proprietary and confidential business information
 25 but is integral to Google’s Opposition. *Id.* Thus, Google has compelling reasons to keep such
 26 information under seal. *See Delphix Corp. v. Actifo, Inc.*, No. 13-cv-04613-BLF, 2014 WL
 27 4145520, at *2 (N.D. Cal. Aug. 20, 2014) (finding compelling reasons to seal where court filings
 28 contained “highly sensitive information regarding [an entity’s confidential] product architecture and

development”); *Guzik Tech. Enterprises, Inc. v. W. Digital Corp.*, No. 5:11-CV-03786-PSG, 2013 WL 6199629, at *4 (N.D. Cal. Nov. 27, 2013) (sealing exhibit containing “significant references to and discussion regarding the technical features” of a litigant’s products).

IV. CONCLUSION

For the foregoing reasons, Google respectfully requests that the Court grant Google’s Administrative Motion to File Under Seal its Patent Showdown Opposition to Sonos’s Motion to Strike Portions of Google’s Motion for Summary Judgment.

DATED: May 5, 2022

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ATTESTATION

Pursuant to the Federal Rules of Civil Procedure and Local Rule 5-1, I hereby certify that, on May 5, 2022, all counsel of record who have appeared in this case are being served with a copy of the foregoing via the Court's CM/ECF system and email.

DATED: May 5, 2022

By: /s/ Charles K. Verhoeven
Charles K. Verhoeven